

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA )  
                                )  
v.                            )     **5:07-cr-009-SLB-JEO**  
                                )  
**BRIAN SCOTT CULVER.**   )**

**MOTION IN LIMINE TO EXCLUDE MENTION OF  
ANY AND ALL DRUGS OR PRESCRIPTION MEDICINES  
WHICH WERE REPORTEDLY SECURED BY BRIAN  
CULVER VIA INTERNET OR OTHER SOURCES**

COMES NOW the Defendant, by and through his undersigned attorney, and respectfully moves this Honorable Court to issue an “Order” prohibiting the Government and/or any of its witnesses from mentioning or attempting to mention before the venire or jury any evidence or claim regarding any other prescription medicines or drugs allegedly secured by Brian Culver from internet sources and/or other sources from which prescription medicines or drugs can be obtained. In support of said Motion, your Defendant avers as follows:

1. That this Defendant has not been charged in any indictment before this Honorable Court claiming he provided any alleged victim any controlled substance or prescription medication. That the indictment in previous “state court cases” alleging any crime regarding the providing of a

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controlled substance, specifies that the alleged victim, to-wit: K.W., was provided a “Xanax” by the Defendant, Brian Culver.

2. That on any previous charges brought in the state courts alleging such a claim, this Defendant was expressly found “**Not Guilty.**”

3. That no blood and/or urine tests were conducted of any alleged victim shown on the videotape or photographs in this case.

4. That the Government will, in the judgment of the defense, attempt to argue that Brian Culver has previously secured a substance commonly known as “Valium,” and reported by chemists as diazepam, and/or other prescriptions or controlled substances, from various internet sources and other sources, and that the alleged victim, to-wit: K.W., reportedly was rendered unconscious during the time of the taking of the photographs and/or video recording in these cases. These are conclusions of the Government or its witnesses, and not supported by any test results. That said conduct is not charged in the indictment, nor is the conduct probative of the existing charge against this Defendant.

5. The Government can still argue any theory it wishes to argue based on the mobility or movement (or lack thereof), of the female person shown on the video and/or photographs, but to allow the mention of specific

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drugs before the jury without proof of ingestion or use would be improper. Any alleged probative value of said evidence would be vastly outweighed by the prejudicial effect of the evidence to this Defendant.

**WHEREFORE, PREMISES CONSIDERED,** Defendant respectfully moves this Honorable Court to issue an Order “**Suppressing**” any reference at trial to the above-referenced subjects.

Respectfully submitted,

s/Herbie Brewer  
**HERBIE BREWER (asb-8713-b55h)**  
**Attorney for Defendant**  
**215 21st Street North, Suite 200**  
**Birmingham, Alabama 35203**  
**(205) 323-6699**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of February, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following attorneys of record: Alice H. Martin, United States Attorney, Laura D. Hodge, Assistant United States Attorney.

s/Herbie Brewer  
Herbie Brewer